

NTSB Order No. EA-5229

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 5th day of June, 2006

Respondent.

Docket SE-17523

Respondent has appealed from Administrative Law Judge William E. Fowler, Jr.'s written decision granting the Administrator's motion to dismiss respondent's appeal as untimely (it was filed 3 days late).¹ The law judge thoroughly and accurately reviewed the facts and the law. Respondent presents no new arguments in his appeal that would justify reversal of the

7789

law judge's decision.² We affirm his decision and adopt it as our own.

As the law judge notes, 49 C.F.R. 821.11(a), and our decision in Administrator v. Hooper, 6 NTSB 559 (1988), on remand from Hooper v. Nat'l Transp. Safety Bd., 841 F.2d 1150 (D.C. Cir. 1988), require that our acceptance of any appeal submitted more than 20 days after the Administrator's order was served is conditional on our finding of good cause for the delay. In this case good cause was not shown. Having kept his father's address as his official address on file with the FAA while he apparently was living elsewhere, he was obliged to check that address for FAA mail, especially since a Notice of Proposed Certificate Action had been sent to him. The situation that caused the delay in respondent's becoming aware of the Order of Suspension was of respondent's own making.

In addition to the cases cited by the law judge, we would direct respondent's attention to Administrator v. Beissel, NTSB Order No. EA-5153 (2005), in which we found a lack of good cause for a late filing because respondent knew or should have known that the Administrator would be issuing an Order of Suspension yet did not advise the FAA that he would be away for an extended

² Respondent argues that the Fina Air Operations Manual and Pilot Training Program as well as information provided by a local inspector misled him and caused him to violate the regulations cited in the Order of Suspension and that he should be forgiven due to his past good record. The facts surrounding the allegations in the complaint have no bearing on the procedural issue here: whether respondent showed good cause for his failure to file a timely appeal.

period nor alert his mother, with whom he lived, to advise him if he received mail from the FAA.

ACCORDINGLY, IT IS ORDERED THAT:

1. Respondent's appeal is denied; and
2. The 45-day suspension of respondent's certificate shall begin 30 days after the service date indicated on this opinion and order.³

ROSENKER, Acting Chairman, and ENGLEMAN CONNERS, HERSMAN, and HIGGINS, Members of the Board, concurred in the above opinion and order.

³ For the purpose of this order, respondent must physically surrender his certificate to a representative of the Federal Aviation Administration pursuant to 14 C.F.R. 61.19(g).